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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,909	09/22/2003	Richard F. Murphy	1001.1530101	9920

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EXAMINER

KOHARSKI, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3763

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/667,909

Applicant(s)

MURPHY, RICHARD F.

Examiner

Christopher D. Koharski

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 1-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

Examiner acknowledges applicants reply filed 10/20/2006, currently claims 41-56 are currently pending for examination in this application.

Response to Arguments

Applicant's arguments with respect to claims 54-56 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 10/20/2006 with respect to claims 41-53 have been fully considered, Examiner strongly disagrees with Applicant's assertion, as disclosed in paragraph, [0038-0042], Parsi et al. discloses that the laser ablation follows the contours of the filament (30) constructing peaks (37) and valleys (39) on filaments (31, 33) within the support member layer (14). Additionally, it is disclosed that filament may or may not have any coating on the outer surface thereof, this causes a change in surface area after treatment by reduction of the polymeric layer. However, to expedite prosecution, Examiner submits a new ground of rejection (see below).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3763

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 41-53 are rejected under 35 U.S.C 103(a) as being unpatentable over Parsi et al. (US2001/0027310) in view of (Willard 6,669,886 or (Cohen (5,330,521)).

Regarding claims 41-53, Parsi et al. discloses guide catheter with an inner liner and the device being a multi-material composite structure. Parsi et al. discloses a catheter comprising a metallic filament (30, [0034]), an inner (16) and outer surface (12) with a lumen extending there through. The outer layer and inner layer of the catheter are composed of polymeric materials ([0028]) (Figures 1-7).

However, Willard teaches a reinforced catheter and method of manufacture and Cohen teaches a low resistance implantable electrical lead cable.

Regarding claims 41-53, Willard teaches a catheter comprising an outer layer (60), a metallic filament (64), an inner layer (68), and a composite reinforced member (62) (Figures 1-6). Willard discloses that the reinforced filament member is etched then the outer layer extruded over the member (col 7, ln 35-50). Cohen teaches a medical device with an outer layer (26), metal filament (22), and a conductive layer. Cohen discloses that a wire core (22) is etched before the application of a subsequent material layer (col 6, ln 35-65).

At the time of the invention, it would have been obvious to use the teachings of Cohen and Willard to etch the metal filament of Parsi et al. because it is well known the etching can be used to clean the material before use and used to increase adhesion between layers and different materials of a medical device. The references are analogous in the medical device art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Willard or Cohen.

Claim Rejections - 35 USC § 103

Claims 54-56 are rejected under 35 U.S.C 103(a) as being unpatentable over Parsi et al. in view of Willard (or Cohen) in view of Ozasa (2002/0143384). The modified Parsi et al. meets the claim limitations as described above but does not include a member that is etched.

However, Ozasa teaches a tubular metallic cored device. Regarding claims 54-56, Ozasa teaches a device that has a metallic member that is chemically etched ([0050]).

At the time of the invention, it would have been obvious to use the etching of Ozasa with the device of the modified Parsi et al. because the addition of chemically etching the member provides a heat sensitive way to adjust the surface geometry. Both references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Ozasa.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date: 12/05/2006


Christopher D. Koharski
AU 3763

